

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DYNA-DRILL TECHNOLOGIES INC,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. H-03-5599
	§	
KENNAMETAL INC; dba CONFORMA CLAD INC,	§	
	§	
	§	
Defendant.	§	

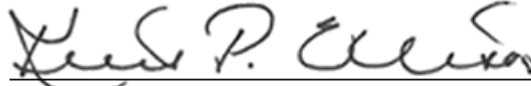
MEMORANDUM AND ORDER

Plaintiffs Dyna-Drill Technologies and Michael Speckert ("Plaintiffs") prevailed in this declaratory judgment action, defeating Defendant Kennemetal Inc. d/b/a/ Conforma Clad's ("Conforma Clad") counterclaims at trial. Plaintiffs now seek recovery of attorneys' fees from Conforma Clad. After consideration of the parties' filings, the Court **DENIES** Plaintiffs' motion for recovery of attorneys' fees.

Plaintiffs do not claim that attorneys' fees are recoverable under the substantive law governing this case. Instead, they seek recovery under the Court's inherent powers. The Court may, in its discretion, grant fees "when the losing party has acted in bad faith, vexatiously, wantonly, or for oppressive reasons." *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y* , 421 U.S. 240, 258-59 (1975) (internal quotation marks and citation omitted). In the context of this hard-fought case, the Court finds that Conforma Clad did not act so "vexatiously" or "wantonly" as to justify an award of attorneys' fees to Plaintiffs. Plaintiffs' motion for recovery of attorneys' fees is therefore **DENIED**.

IT IS SO ORDERED.

SIGNED THIS 9TH DAY OF SEPTEMBER, 2005.

A handwritten signature in dark ink, appearing to read "Keith P. Ellison", written over a horizontal line.

Keith P. Ellison
United States District Judge

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES THIS
ORDER SHALL FORWARD A COPY OF IT TO EVERY OTHER PARTY
AND AFFECTED NON-PARTY EVEN THOUGH THEY MAY HAVE BEEN
SENT ONE BY THE COURT.**